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**IN THE
COURT OF APPEALS OF INDIANA**

BYRON D. THOMPSON,
Appellant-Defendant,

VS.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 84A01-0610-CR-448

APPEAL FROM THE VIGO SUPERIOR COURT
The Honorable David R. Bolk, Judge
Cause No. 84D03-0504-FB-894

June 29, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Byron D. Thompson appeals his conviction of residential entry, a Class D felony.¹
We affirm.

Tamika Shavers and Charles Tidd were sleeping in Shavers' apartment the morning of March 31, 2005. Thompson called Shavers and asked if he could borrow a "stick"² because "he had to take care of some business." (Tr. at 138.) He came to Shavers' apartment and picked up the stick. He later returned to Shavers' apartment, knocked on the door, and returned the stick.

Later, Thompson came back to Shavers' apartment and knocked on the door. When Shavers cracked the door open, Thompson pushed the door open with his left hand. He grabbed the stick, which was near the door, with his right hand. He shoved Shavers out of the way and went upstairs. When he got to the upstairs bedroom, he confronted Tidd.

Thompson argues there was insufficient evidence to convict him. The crime of residential entry is committed when a "person . . . knowingly or intentionally breaks and enters the dwelling of another person." Ind. Code § 35-43-2-1.5. Thompson contends he had consent to enter the premises.

Although there had been a prior relationship between Shavers and Thompson, nothing in the record suggests Thompson had her consent to enter the apartment on his third visit. Thompson was at Shavers' apartment twice before without incident, but on the third occasion Thompson pushed open the door and entered Shavers' apartment,

¹ Ind. Code § 35-43-2-1.5.

² The "stick" was also referred to as a "club," (Tr. at 121), or "[l]ike a wooden bat." (*Id.* at 77.)

grabbing a club and going up the stairs. The evidence is sufficient to support his conviction of residential entry.

Affirmed.

BAILEY, J., and SHARPNACK, J., concur.